

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YVES SAINT LAURENT PARFUMS S.A.)	Civil Action No.
and YSL BEAUTE INC.,)	07 Civ. 3214 (LBS)(HP)
)	
Plaintiffs,)	
)	
- against -)	ANSWER
)	
COSTCO WHOLESALE CORPORATION,)	
QUALITY KING DISTRIBUTORS, INC.)	
and J & H COSMETICS, LTD.,)	
)	
Defendants.)	
)	
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Defendant, J & H COSMETICS, LTD. (hereinafter "J&H"), by its attorneys, SOMER & HELLER LLP, answering the Supplemental Second Amended Complaint alleges as follows:

1. Paragraph 1 of the Supplemental Second Amended Complaint asserts conclusions of law to which no response is required. To the extent that a response is required, J&H denies the allegations of paragraph 1 of the Supplemental Second Amended Complaint.
2. Paragraph 2 of the Supplemental Second Amended Complaint asserts conclusions of law to which no response is required. To the extent that a response is required, J&H denies the allegations of paragraph 2 of the Supplemental Second Amended Complaint.
3. Paragraph 3 of the Supplemental Second Amended Complaint asserts conclusions of law to which no response is required. To the extent that a response is required, J&H denies

knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Supplemental Second Amended Complaint, except admits that J&H is registered to do business and is doing business in the State of New York.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 4 of the Supplemental Second Amended Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 5 of the Supplemental Second Amended Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 6 of the Supplemental Second Amended Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 7 of the Supplemental Second Amended Complaint.

8. Admits the allegations contained in paragraph 8 of the Supplemental Second Amended Complaint but avers that J&H is not a proper Defendant in this action because it never sold the perfume in question.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 9 of the Supplemental Second Amended Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 10 of the Supplemental Second Amended Complaint.

11. Paragraph 11 of the Supplemental Second Amended Complaint contains conclusions of law as to which no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 11 of the Supplemental Second Amended Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 12 of the Supplemental Second Amended Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 13 of the Supplemental Second Amended Complaint.

14. Paragraph 14 of the Supplemental Second Amended Complaint contains conclusions of law as to which no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 14 of the Supplemental Second Amended Complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 15 of the Supplemental Second Amended Complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 16 of the Supplemental Second Amended Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 17 of the Supplemental Second Amended Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 18 of the Supplemental Second Amended Complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 19 of the Supplemental Second Amended Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 20 of the Supplemental Second Amended Complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 21 of the Supplemental Second Amended Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 22 of the Supplemental Second Amended Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 23 of the Supplemental Second Amended Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 24 of the Supplemental Second Amended Complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 25 of the Supplemental Second Amended Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 26 of the Supplemental Second Amended Complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 27 of the Supplemental Second Amended Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 28 of the Supplemental Second Amended Complaint.

29. Denies each and every allegation contained in paragraph 29 of the Supplemental Second Amended Complaint.

30. Denies each and every allegation contained in paragraph 30 of the Supplemental Second Amended Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 31 of the Supplemental Second Amended Complaint as they relate to other Defendants. J&H further denies the allegations of paragraph 31 as they relate to J&H except admits that YSL, through its attorneys, Arnold & Porter, LLP., requested by means of

correspondence dated October 23, 2007, a list of J&H's customers to which it sold alleged counterfeit products; and further admits that by correspondence dated October 30, 2007, YSL through its attorneys, Arnold & Porter, LLP., advised J&H that the alleged counterfeit product contains an ingredient which may be harmful to consumers.

32. Denies each and every allegation contained in paragraph 32 of the Supplemental Second Amended Complaint.

33. Denies each and every allegation contained in paragraph 33 of the Supplemental Second Amended Complaint.

FIRST CLAIM FOR RELIEF BY YSL PARFUMS AGAINST ALL DEFENDANTS
TRADEMARK COUNTERFEITING UNDER 15 U.S.C. § 1114

34. J&H's responses to paragraphs 1 - 33 are alleged and incorporated by reference as if set forth in full.

35. Denies each and every allegation contained in paragraph 35 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 35 of the Supplemental Second Amended Complaint as relating to other Defendants.

36. Denies each and every allegation contained in paragraph 36 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 36 of the Supplemental Second Amended Complaint as relating to other Defendants.

37. Denies each and every allegation contained in paragraph 37 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a

belief as to the truth of the allegations contained in paragraph number 37 of the Supplemental Second Amended Complaint as relating to other Defendants.

38. Denies each and every allegation contained in paragraph 38 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 38 of the Supplemental Second Amended Complaint as relating to other Defendants.

39. Denies each and every allegation contained in paragraph 39 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 39 of the Supplemental Second Amended Complaint as relating to other Defendants.

40. Denies each and every allegation contained in paragraph 40 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 40 of the Supplemental Second Amended Complaint as relating to other Defendants.

41. Denies each and every allegation contained in paragraph 41 of the Supplemental Second Amended Complaint.

SECOND CLAIM FOR RELIEF BY YSL PARFUMS AGAINST COSTCO
INFRINGEMENT OF REGISTERED TRADEMARKS UNDER 15 U.S.C. § 1114

42. J&H's responses to paragraphs 1 - 41 are alleged and incorporated by reference as if set forth in full.

43. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the

truth of the allegations contained in paragraph number 43 of the Supplemental Second Amended Complaint.

44. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 44 of the Supplemental Second Amended Complaint.

45. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 45 of the Supplemental Second Amended Complaint.

46. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 46 of the Supplemental Second Amended Complaint.

47. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 47 of the Supplemental Second Amended Complaint.

48. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 48 of the Supplemental Second Amended Complaint.

49. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 49 of the Supplemental Second Amended Complaint.

50. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 50 of the Supplemental Second Amended Complaint.

THIRD CLAIM FOR RELIEF BY YSL PARFUMS AGAINST COSTCO
TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

51. J&H's responses to paragraphs 1 - 50 are alleged and incorporated by reference as if set forth in full.

52. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 52 of the Supplemental Second Amended Complaint.

53. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 53 of the Supplemental Second Amended Complaint.

54. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the

truth of the allegations contained in paragraph number 54 of the Supplemental Second Amended Complaint.

55. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 55 of the Supplemental Second Amended Complaint.

56. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 56 of the Supplemental Second Amended Complaint.

57. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 57 of the Supplemental Second Amended Complaint.

58. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 58 of the Supplemental Second Amended Complaint.

59. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 59 of the Supplemental Second Amended Complaint.

FOURTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST COSTCO
FALSE DESIGNATION OF ORIGIN AND
FALSE ADVERTISING UNDER 15 U.S.C. § 1125(a)

60. J&H's responses to paragraphs 1 - 59 are alleged and incorporated by reference as if set forth in full.

61. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 61 of the Supplemental Second Amended Complaint.

62. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 62 of the Supplemental Second Amended Complaint.

63. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 63 of the Supplemental Second Amended Complaint.

64. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 64 of the Supplemental Second Amended Complaint.

65. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the

truth of the allegations contained in paragraph number 65 of the Supplemental Second Amended Complaint.

66. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 66 of the Supplemental Second Amended Complaint.

FIFTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST ALL DEFENDANTS
DILUTION OF A REGISTERED TRADEMARK UNDER 15 U.S.C. § 1125 (c)

67. J&H's responses to paragraphs 1 - 66 are alleged and incorporated by reference as if set forth in full.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 68 of the Supplemental Second Amended Complaint.

69. Paragraph 69 of the Supplemental Second Amended Complaint contains conclusions of law as to which no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 69 of the Supplemental Second Amended Complaint.

70. Paragraph 70 of the Supplemental Second Amended Complaint contains conclusions of law as to which no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 70 of the Supplemental Second Amended Complaint.

71. Denies each and every allegation contained in paragraph 71 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a

belief as to the truth of the allegations contained in paragraph number 71 of the Supplemental Second Amended Complaint as relating to other Defendants.

72. Denies each and every allegation contained in paragraph 72 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 72 of the Supplemental Second Amended Complaint as relating to other Defendants.

73. Denies each and every allegation contained in paragraph 73 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 73 of the Supplemental Second Amended Complaint as relating to other Defendants.

74. Denies each and every allegation contained in paragraph 74 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 74 of the Supplemental Second Amended Complaint as relating to other Defendants.

75. Denies each and every allegation contained in paragraph 75 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 75 of the Supplemental Second Amended Complaint as relating to other Defendants.

76. Denies each and every allegation contained in paragraph 76 of the Supplemental Second Amended Complaint.

SIXTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST COSTCO
TRADEMARK INFRINGEMENT UNDER COMMON LAW

77. J&H's responses to paragraphs 1 - 76 are alleged and incorporated by reference as if set forth in full.

78. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 78 of the Supplemental Second Amended Complaint.

79. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 79 of the Supplemental Second Amended Complaint.

80. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 80 of the Supplemental Second Amended Complaint.

81. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 81 of the Supplemental Second Amended Complaint.

82. This claim is not directed at J&H and therefore no response is required. To the extent a response is required, J&H denies knowledge or information sufficient to form a belief as to the

truth of the allegations contained in paragraph number 82 of the Supplemental Second Amended Complaint.

SEVENTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST ALL DEFENDANTS
UNFAIR COMPETITION UNDER COMMON LAW

83. J&H's responses to paragraphs 1 - 82 are alleged and incorporated by reference as if set forth in full.

84. Denies each and every allegation contained in paragraph 84 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 84 of the Supplemental Second Amended Complaint as relating to other Defendants.

85. Denies each and every allegation contained in paragraph 85 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 85 of the Supplemental Second Amended Complaint as relating to other Defendants.

86. Denies each and every allegation contained in paragraph 86 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 86 of the Supplemental Second Amended Complaint as relating to other Defendants.

87. Denies each and every allegation contained in paragraph 87 of the Supplemental Second Amended Complaint.

EIGHTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST ALL DEFENDANTS
SECTION 349 OF THE NEW YORK GENERAL BUSINESS LAW

88. J&H's responses to paragraphs 1 - 87 are alleged and incorporated by reference as if set forth in full.

89. Denies each and every allegation contained in paragraph 89 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 89 of the Supplemental Second Amended Complaint as relating to other Defendants.

90. Denies each and every allegation contained in paragraph 90 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 90 of the Supplemental Second Amended Complaint as relating to other Defendants.

91. Denies each and every allegation contained in paragraph 91 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 91 of the Supplemental Second Amended Complaint as relating to other Defendants.

92. Denies each and every allegation contained in paragraph 92 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 92 of the Supplemental Second Amended Complaint as relating to other Defendants.

93. Denies each and every allegation contained in paragraph 93 of the Supplemental Second Amended Complaint.

NINTH CLAIM FOR RELIEF BY YSL PARFUMS AGAINST ALL DEFENDANTS
SECTION 360-1 OF THE NEW YORK GENERAL BUSINESS LAW

94. J&H's responses to paragraphs 1 - 93 are alleged and incorporated by reference as if set forth in full.

95. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 95 of the Supplemental Second Amended Complaint.

96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 96 of the Supplemental Second Amended Complaint.

97. Denies each and every allegation contained in paragraph 97 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 97 of the Supplemental Second Amended Complaint as relating to other Defendants.

98. Denies each and every allegation contained in paragraph 98 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 98 of the Supplemental Second Amended Complaint as relating to other Defendants.

99. Denies each and every allegation contained in paragraph 99 of the Supplemental Second Amended Complaint as to J&H and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph number 99 of the Supplemental Second Amended Complaint as relating to other Defendants.

100. Denies each and every allegation contained in paragraph 100 of the Supplemental Second Amended Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs unduly delayed giving notice to the trade or to J&H as to the likely or actual presence of alleged counterfeit products in the market. Plaintiffs, therefore, acquiesced in the distribution and sale of these products and prevented J&H from having knowledge that the alleged counterfeit products were in the market.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred under the doctrines of estoppel, laches and waiver.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their alleged damages, if any.

FIFTH AFFIRMATIVE DEFENSE

No act or conduct of J&H caused any damages or injury to Plaintiff.

WHEREFORE, Defendant J & H COSMETICS, LTD demands judgment dismissing the Complaint in its entirety; and for such other, further and different relief as to this Court seems just and proper.

DATED: December 4, 2007
Commack, New York

Yours, etc.

S/

JEFFREY T. HELLER, ESQ. (JH 2720)
SOMER & HELLER LLP
Attorneys for Defendant J&H
2171 Jericho Turnpike, Suite 350
Commack, New York 11725
631-462-2323